

HOUSE BILL NO. 45

INTRODUCED BY D. VILLA

BY REQUEST OF THE OFFICE OF PUBLIC INSTRUCTION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL FINANCE LAWS; CLARIFYING PROVISIONS RELATING TO FINANCING DISTRICT CONSOLIDATION AND ANNEXATION; REVISING GENERAL FUND BUDGET LIMITATIONS; REVISING THE CALCULATION OF AVERAGE NUMBER BELONGING; REVISING ELECTION PROVISIONS FOR FINANCING OF THE GENERAL FUND BUDGET; CLARIFYING THE COMPUTATION OF THE GENERAL FUND LEVY REQUIREMENT; AMENDING SECTIONS 20-3-312, 20-6-411, 20-6-414, 20-6-422, 20-6-704, 20-9-308, 20-9-141, 20-9-311, AND 20-9-353, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-3-312, MCA, is amended to read:

"20-3-312. Trustees of district affected by boundary change. The trustees of any district to which the territory of another district is attached as a result of annexation, abandonment, territory transfer, or any other method of changing district boundaries, except by the consolidation of elementary districts, continue to be the trustees of the district with the same powers, duties, and responsibilities and subject to the same limitations provided by law as if there had been no boundary change. In the case of elementary district consolidation, the appointed trustees of the resulting elementary district shall assume their trustee positions under the authority of 20-6-423."

Section 2. Section 20-6-411, MCA, is amended to read:

"20-6-411. Bonded indebtedness to remain with original territory except when assumed by election. Whenever district boundaries are changed in any manner prescribed in this title, the existing bonded indebtedness against any a district or territory affected by a change of boundaries shall ~~shall~~ must remain the indebtedness of the original territory against which ~~such~~ the bonds were issued and ~~shall~~ must be paid by levies on the original territory, except when elementary districts are consolidated with the mutual assumption of bonded indebtedness or when an ~~an elementary~~ a district is annexed with a joint assumption of the annexing district's



1 bonded indebtedness ~~with the annexing district~~. Any ~~moneys~~ money to the credit of the debt service fund of a  
 2 district when its boundaries are changed ~~shall~~ must be used to pay the existing bond principal and interest of the  
 3 original territory issuing ~~such the~~ bonds as it becomes due or for bond redemption under the bonding provisions  
 4 of this title."

5

6 **Section 3.** Section 20-6-414, MCA, is amended to read:

7 **"20-6-414. Cash disposition when districts consolidated.** Whenever two or more districts are  
 8 consolidated without the mutual assumption of bonded indebtedness, all cash and debts, other than cash credited  
 9 to the debt service fund and debts for bonded indebtedness, ~~shall~~ must be credited or debited to the same types  
 10 of funds of the consolidated district as the funds from which they were transferred by the county treasurer. In  
 11 addition, when two or more ~~elementary~~ districts are consolidated with the mutual assumption of bonded  
 12 indebtedness, the cash credited to the debt service fund and the bonded indebtedness also ~~shall~~ must be  
 13 transferred to a similar fund of the consolidated district."

14

15 **Section 4.** Section 20-6-422, MCA, is amended to read:

16 **"20-6-422. District annexation.** (1) As used in this section, the following definitions apply:

17 (a) "Annexing district" means the district to which another district is being attached through an annexation  
 18 procedure.

19 (b) "District to be annexed" means the district that is being attached to another district through an  
 20 annexation procedure.

21 (2) A district may be annexed to a contiguous district when one of the conditions of 20-6-421 is met in  
 22 accordance with the following procedure:

23 (a) An annexation proposition may be introduced in the district to be annexed by either of the two  
 24 following methods:

25 (i) the trustees may pass a resolution requesting the county superintendent of the county where the  
 26 district is located to order an election to consider an annexation proposition for their district; or

27 (ii) not less than 20% of the electors of the district who are qualified to vote under the provisions of  
 28 20-20-301 may petition the county superintendent of the county where the district is located requesting an  
 29 election to consider an annexation proposition for their district.

30 (b) The resolution or petition must state whether the annexation is to be made with or without the joint

1 assumption of bonded indebtedness of the annexing district by the district to be annexed and the annexing  
2 district.

3 (3) Before ordering an election on the proposition, the county superintendent of the county where the  
4 district to be annexed is located must first receive from the trustees of the annexing district a resolution giving the  
5 county superintendent the authority to annex the district. The resolution must state whether the annexation is to  
6 be made with or without the joint assumption of bonded indebtedness of the annexing district by the district to be  
7 annexed and the annexing district. The resolution from the annexing district and the resolution or petition from  
8 the district to be annexed must agree on whether or not there will be joint assumption of bonded indebtedness.  
9 Without agreement, the annexation proposition may not be considered further.

10 (4) When the county superintendent of the county where the district to be annexed is located has  
11 received the resolution authorizing the annexation from the annexing district and the resolution or valid petition  
12 from the district to be annexed, the county superintendent shall, within 10 days and as provided by 20-20-201,  
13 order the trustees of the district to be annexed to call an annexation election.

14 (5) The district to be annexed shall call and conduct an election in the manner prescribed in this title for  
15 school elections and subject to subsections (6) and (7). Any elector qualified to vote under the provisions of  
16 20-20-301 may vote.

17 (6) (a) If the district to be annexed is to jointly assume the bonded indebtedness of the annexing district,  
18 the ballots must read, after stating the annexation proposition, "FOR annexation with assumption of bonded  
19 indebtedness" and "AGAINST annexation with assumption of bonded indebtedness".

20 (b) When the trustees in ~~each~~ the district conducting ~~an~~ the election canvass the vote under the  
21 provisions of 20-20-415, they shall determine the number of votes "FOR" and "AGAINST" the proposition.

22 (c) The proposition is approved in the district if a majority of those voting approve the proposition.

23 (7) If the district to be annexed is not to jointly assume the bonded indebtedness of the annexing district,  
24 the ballots must read, after stating the annexation proposition, "FOR annexation without assumption of bonded  
25 indebtedness" and "AGAINST annexation without assumption of bonded indebtedness". The annexation  
26 proposition is approved by a district if a majority of those voting in a district approve the proposition.

27 (8) After the county superintendent of the county where the district to be annexed is located has received  
28 the election certification provided for in 20-20-416 from the trustees of the district conducting the annexation  
29 election and if the annexation proposition has been approved by the election, the county superintendent shall  
30 order the annexation of the territory of the district voting on the proposition to the district that has authorized the

1 annexation to its territory effective July 1. The order must be issued within 10 days after the receipt of the election  
 2 certificate. For annexation with joint assumption of bonded indebtedness, the order must specify that there will  
 3 be joint assumption of the bonded indebtedness between of the annexing district by the owners of all taxable real  
 4 and personal property in the ~~annexed~~ territory ~~and in the annexing of the~~ district to be annexed. The county  
 5 superintendent of the county where the district to be annexed is located shall send a copy of the order to the  
 6 board of county commissioners of each county involved in the annexation order and to the trustees of the districts  
 7 involved in the annexation order.

8 (9) If the annexation proposition is disapproved in the district to be annexed, the annexation proposition  
 9 fails and the county superintendent of the county where the district to be annexed is located shall notify each  
 10 district of the disapproval of the annexation proposition."  
 11

12 **Section 5.** Section 20-6-704, MCA, is amended to read:  
 13 **"20-6-704. Dissolution of K-12 school district.** (1) Except as provided in subsection (2), in order to  
 14 dissolve a K-12 district under the provisions of this section, the trustees of a district shall submit for approval to  
 15 the electors of the K-12 district a proposition dissolving the K-12 district for the purpose of annexing or  
 16 consolidating the K-12 district's elementary or high school program with a contiguous school district or districts  
 17 in an ensuing school fiscal year under the provisions of 20-6-422 or 20-6-423.

18 (2) If the trustees of the school district determine that the creation or continuation of the K-12 district has  
 19 resulted in or will result in the loss of federal funding for the elementary or high school programs and that it is in  
 20 the best interest of the district to dissolve into the original elementary district and high school district that existed  
 21 prior to the formation of the K-12 district, the trustees may dissolve the district under the following procedure:

22 (a) The trustees of the district shall pass a resolution requesting the county superintendent to order a  
 23 dissolution of the district.

24 (b) When the county superintendent receives the resolution from the district, the county superintendent  
 25 shall, within 10 days, order the dissolution of the K-12 district into the original elementary district and high school  
 26 district, to take effect on July 1 of the ensuing school fiscal year. Within 30 days of the order, the county  
 27 superintendent shall send a copy of the order to the board of county commissioners, the trustees of the district,  
 28 and the superintendent of public instruction.

29 (3) If the entire territory of the dissolving K-12 district will be annexed to or consolidated with a contiguous  
 30 district or districts, the resolution or petition required in subsection (1) or (2) must contain a description of the

1 manner in which the real and personal property and funds of the district are to be apportioned in the dissolution  
 2 of the district and the subsequent annexation to or consolidation with one or more other districts. If a portion of  
 3 the dissolving K-12 district will not be annexed or consolidated with another district or districts, the resolution or  
 4 petition must contain a description of the manner in which the property, funds, and financial obligations, including  
 5 bonded indebtedness, of the K-12 district are to be apportioned to the district or districts whose territory is not  
 6 annexed to or consolidated with another district.

7 (4) After the county superintendent receives the certificate of election provided for in 20-20-416 from the  
 8 trustees of the K-12 district and from each district included in a consolidation proposition, the county  
 9 superintendent shall determine whether the dissolution and annexation or consolidation proposition or  
 10 propositions have been approved. If the K-12 district has approved the dissolution proposition and each district  
 11 involved in a consolidation has approved the consolidation proposition, the county superintendent shall, within  
 12 10 days after the receipt of the election certificate, order the dissolution of the K-12 district into the original  
 13 elementary district and high school district, to take effect on July 1 of the ensuing school fiscal year. Within 30  
 14 days of the order, the county superintendent shall send a copy of the dissolution order to the board of county  
 15 commissioners, the trustees of the district included in the dissolution order, and the superintendent of public  
 16 instruction.

17 (5) Whenever a K-12 district is dissolved, the following provisions apply:

18 (a) The trustees of the elementary district whose territory is not annexed or consolidated upon dissolution  
 19 of the K-12 district are responsible for the execution of remaining financial obligations of the K-12 district and for  
 20 the apportionment between the elementary and high school programs of any obligations not identified in the  
 21 resolution required under subsection (3).

22 (b) The provisions of 20-6-410 apply for tenure teachers in the dissolution of a K-12 district.

23 (c) For purposes of applying the budget limitation provisions of 20-9-308, the budget of a K-12 district  
 24 during its last year of operations as a K-12 district will be prorated based on rules promulgated by the  
 25 superintendent of public instruction."  
 26

27 **Section 6.** Section 20-9-308, MCA, is amended to read:

28 **"20-9-308. (Temporary) BASE budgets and maximum general fund budgets.** (1) (a) The trustees  
 29 of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district  
 30 and, ~~except as provided in subsection (3), does not exceed the maximum general fund budget established for~~

1 ~~the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget~~  
 2 ~~or the previous year's general fund budget, whichever is greater.~~

3 (b) For purposes of the budget limitation in subsection (1)(a), trustees may add any increase in state  
 4 funding passed by the legislature for the general fund payments in 20-9-327 through 20-9-330 to the district's  
 5 previous year's general fund budget.

6 (2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE  
 7 budget for the district ~~but does not exceed the maximum general fund budget for the district~~ and to increase the  
 8 over-BASE property tax levy to support the general fund, the trustees shall submit a proposition to the electors  
 9 of the district, as provided in 20-9-353.

10 ~~(3) (a) (i) Except as provided in subsections (3)(a)(ii) and (3)(b), the trustees of a school district whose~~  
 11 ~~previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt~~  
 12 ~~a general fund budget up to the maximum general fund budget amount or the previous year's general fund~~  
 13 ~~budget, whichever is greater. Except as provided in subsection (3)(b), a school district may adopt a budget under~~  
 14 ~~the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan~~  
 15 ~~to reach the maximum general fund budget by no later than the end of the 5-year period.~~

16 ~~—— (ii) Except as provided in subsection (3)(b), the trustees of a district whose general fund budget was~~  
 17 ~~above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and~~  
 18 ~~whose general fund budget has continued to exceed the district's maximum general fund budget in each school~~  
 19 ~~fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum~~  
 20 ~~general fund budget. However, the budget adopted for the current year may not exceed the lesser of:~~

21 ~~—— (A) the adopted budget for the previous year; or~~

22 ~~—— (B) the district's maximum general fund budget for the current year plus the over maximum budget~~  
 23 ~~amount adopted for the previous year.~~

24 ~~—— (b) A school district that adopted a general fund budget over its maximum general fund budget under~~  
 25 ~~any provision of subsection (3)(a) at any time between fiscal year 2001 and fiscal year 2005 may, for fiscal year~~  
 26 ~~2006 and fiscal year 2007, adopt the greater of its maximum general fund budget or the highest actual budget~~  
 27 ~~adopted between fiscal year 2001 and fiscal year 2005.~~

28 ~~—— (c) Except as provided in 20-9-353(8), the trustees of the district shall submit a proposition to raise any~~  
 29 ~~general fund budget amount that is in excess of the maximum general fund budget for the district to the electors~~  
 30 ~~who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.~~

- 1           ~~(4)~~(3) The BASE budget for the district must be financed by the following sources of revenue:
- 2           (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the
- 3 district may be eligible, as provided in 20-9-366 through 20-9-369;
- 4           (b) county equalization aid, as provided in 20-9-331 and 20-9-333;
- 5           (c) a district levy for support of a school not approved as an isolated school under the provisions of
- 6 20-9-302;
- 7           (d) payments in support of special education programs under the provisions of 20-9-321;
- 8           (e) nonlevy revenue, as provided in 20-9-141; and
- 9           (f) a BASE budget levy on the taxable value of all property within the district.

10          ~~(5)~~(4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all

11 property within the district or other revenue available to the district, as provided in 20-9-141. (Terminates June

12 30, 2007--sec. 3, Ch. 190, L. 2005; sec. 25(2), Ch. 462, L. 2005.)

13           **20-9-308. (Effective July 1, 2007) BASE budgets and maximum general fund budgets.** (1) (a) The

14 trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for

15 the district ~~and, except as provided in subsection (3), does not exceed the maximum general fund budget~~

16 ~~established for the district.~~ The trustees of a district may adopt a general fund budget up to the maximum general

17 fund budget or the previous year's general fund budget, whichever is greater.

18           (b) For purposes of the budget limitation in subsection (1)(a), trustees may add any increase in state

19 funding passed by the legislature for the general fund payments in 20-9-327 through 20-9-330 to the district's

20 previous year's general fund budget.

21           (2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE

22 budget for the district ~~but does not exceed the maximum general fund budget for the district and to increase the~~

23 over-BASE property tax levy to support the general fund budget, the trustees shall submit a proposition to the

24 electors of the district, as provided in 20-9-353.

25           ~~(3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous~~

26 ~~year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a~~

27 ~~general fund budget up to the maximum general fund budget amount or the previous year's general fund budget,~~

28 ~~whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a~~

29 ~~maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget~~

30 ~~by no later than the end of the 5-year period. A school district whose adopted general fund budget for the~~

- 1 previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous  
 2 year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:
- 3 ~~——— (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous~~  
 4 ~~school fiscal year and the maximum general fund budget for the current school fiscal year;~~
- 5 ~~——— (B) in the second year, 25% of the range between the district's adopted general fund budget for the~~  
 6 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~
- 7 ~~——— (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the~~  
 8 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~
- 9 ~~——— (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the~~  
 10 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~
- 11 ~~——— (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for~~  
 12 ~~the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~
- 13 ~~——— (ii) The trustees of a district whose general fund budget was above the maximum general fund budget~~  
 14 ~~established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to~~  
 15 ~~exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may~~  
 16 ~~continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget~~  
 17 ~~adopted for the current year may not exceed the lesser of:~~
- 18 ~~——— (A) the adopted budget for the previous year; or~~
- 19 ~~——— (B) the district's maximum general fund budget for the current year plus the over maximum budget~~  
 20 ~~amount adopted for the previous year.~~
- 21 ~~——— (b) The trustees of the district shall submit a proposition to raise any general fund budget amount that~~  
 22 ~~is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301~~  
 23 ~~to vote on the proposition, as provided in 20-9-353.~~
- 24 ~~(4)(3)~~ The BASE budget for the district must be financed by the following sources of revenue:
- 25 (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the  
 26 district may be eligible, as provided in 20-9-366 through 20-9-369;
- 27 (b) county equalization aid, as provided in 20-9-331 and 20-9-333;
- 28 (c) a district levy for support of a school not approved as an isolated school under the provisions of  
 29 20-9-302;
- 30 (d) payments in support of special education programs under the provisions of 20-9-321;

- 1 (e) nonlevy revenue, as provided in 20-9-141; and  
2 (f) a BASE budget levy on the taxable value of all property within the district.  
3 ~~(5)~~(4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all  
4 property within the district or other revenue available to the district, as provided in 20-9-141."  
5

6 **Section 7.** Section 20-9-141, MCA, is amended to read:

7 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The  
8 county superintendent shall compute the levy requirement for each district's general fund on the basis of the  
9 following procedure:

10 (a) Determine the funding required for the district's final general fund budget less the sum of direct state  
11 aid and the special education allowable cost payment for the district by totaling:

12 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in  
13 20-9-303; and

14 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of  
15 20-9-308 and 20-9-353, ~~including any additional funding for a general fund budget that exceeds the maximum~~  
16 ~~general fund budget.~~

17 (b) Determine the money available for the reduction of the property tax on the district for the general fund  
18 by totaling:

19 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

20 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the  
21 following:

22 (A) interest earned by the investment of general fund cash in accordance with the provisions of  
23 20-9-213(4); and

24 (B) any other revenue received during the school fiscal year that may be used to finance the general  
25 fund, excluding any guaranteed tax base aid;

26 (iii) anticipated oil and natural gas production taxes;

27 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and

28 (v) school district block grants distributed under 20-9-630.

29 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property  
30 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund

1 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general  
2 fund BASE budget levy requirement.

3 (d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any  
4 tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except  
5 the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a  
6 pupil without disabilities, as calculated under 20-5-323(2).

7 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be  
8 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as  
9 provided in 20-9-353 to determine any additional general fund levy requirements.

10 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property  
11 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget  
12 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

13 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified  
14 by the superintendent of public instruction; and

15 (b) the current total taxable valuation of the district, as certified by the department of revenue under  
16 15-10-202, divided by 1,000.

17 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported  
18 to the county commissioners on the fourth Monday of August by the county superintendent as the general fund  
19 net levy requirement for the district, and a levy must be set by the county commissioners in accordance with  
20 20-9-142.

21 (4) For each school district, the department of revenue shall calculate and report to the county  
22 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross  
23 proceeds under 15-23-703."

24

25 **Section 8.** Section 20-9-311, MCA, is amended to read:

26 **"20-9-311. (Temporary) Calculation of average number belonging (ANB) -- three-year averaging.**

27 (1) Average number belonging (ANB) must be computed for each budget unit as follows:

28 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
29 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on  
30 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and

1 divide the sum by two; and

2 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved  
3 pupil-instruction-related days for the current school fiscal year and divide by 180.

4 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related  
5 days may be included in the calculation.

6 (3) When a school district has approval to operate less than the minimum aggregate hours under  
7 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

8 (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an  
9 education program:

10 (i) from ~~484~~ 180 to 359 aggregate hours of pupil instruction per school year is counted as  
11 one-quarter-time enrollment;

12 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time  
13 enrollment;

14 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time  
15 enrollment; and

16 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

17 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per  
18 school year may not be included for purposes of ANB.

19 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on  
20 the hours necessary and appropriate to provide the course within a regular classroom schedule.

21 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,  
22 or district may not be counted as more than one full-time pupil for ANB purposes.

23 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in  
24 a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as  
25 one-half pupil for ANB purposes.

26 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,  
27 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes  
28 attendance prior to the day of the enrollment count.

29 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB  
30 calculations.

1 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a  
2 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the  
3 district, except that the ANB is calculated as a separate budget unit when:

4 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town  
5 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,  
6 full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must  
7 receive a basic entitlement for the school calculated separately from the other schools of the district;

8 (ii) a school of the district is located more than 20 miles from any other school of the district and  
9 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school  
10 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school  
11 calculated separately from the other schools of the district;

12 (iii) the superintendent of public instruction approves an application not to aggregate when conditions  
13 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
14 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported  
15 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately  
16 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the  
17 other schools of the district; or

18 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and  
19 the basic entitlements of the component districts must be calculated separately for a period of 3 years following  
20 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional  
21 years as follows:

22 (A) 75% of the basic entitlement for the fourth year;

23 (B) 50% of the basic entitlement for the fifth year; and

24 (C) 25% of the basic entitlement for the sixth year.

25 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly  
26 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB  
27 purposes;

28 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
29 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high  
30 school pupils for ANB purposes; or

1 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time  
2 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
3 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
4 program for the district.

5 (9) The district shall provide the superintendent of public instruction with semiannual reports of school  
6 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
7 superintendent.

8 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program  
9 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes  
10 only if the pupil is offered access to the complete range of educational services for the basic education program  
11 required by the accreditation standards adopted by the board of public education.

12 (b) Access to school programs and services for a student placed by the trustees in a private program  
13 for special education may be limited to the programs and services specified in an approved individual education  
14 plan supervised by the district.

15 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a  
16 youth detention center, may be limited to the programs and services provided by the district, at district expense,  
17 under an agreement with the incarcerating facility.

18 (d) This subsection (10) may not be construed to require a school district to offer access to activities  
19 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a  
20 pupil who is not otherwise eligible under the rules of the organization.

21 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this  
22 title and who is:

23 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance  
24 agreement and who is attending a school of the district;

25 (b) unable to attend school ~~due to~~ because of a medical reason certified by a medical doctor and  
26 receiving individualized educational services supervised by the district, at district expense, at a home or facility  
27 that does not offer an educational program;

28 (c) unable to attend school ~~due to~~ because of the student's incarceration in a facility, other than a youth  
29 detention center, and who is receiving individualized educational services supervised by the district, at district  
30 expense, at a home or facility that does not offer an educational program;

1 (d) receiving special education and related services, other than day treatment, under a placement by the  
2 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's  
3 expense under an approved individual education plan supervised by the district;

4 (e) participating in the running start program at district expense under 20-9-706;

5 (f) receiving educational services, provided by the district, using appropriately licensed district staff at  
6 a private residential program or private residential facility licensed by the department of public health and human  
7 services;

8 (g) enrolled in an educational program or course provided at district expense using electronic or offsite  
9 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and  
10 ~~technology delivered~~ technology-delivered learning programs, while attending a school of the district or any other  
11 nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

12 (i) meet the residency requirements for that district as provided in 1-1-215;

13 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities  
14 Education Act or under 29 U.S.C. 794; or

15 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

16 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with  
17 the district under 20-9-707.

18 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the  
19 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated  
20 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever  
21 generates the greatest maximum general fund budget.

22 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund  
23 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and  
24 high school programs pursuant to subsection (12)(a) and then combined.

25 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

26 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the  
27 previous 2 school fiscal years; and

28 (b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007--sec. 25(2),  
29 Ch. 462, L. 2005.)

30 **20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) -- three-year**

1 **averaging.** (1) Average number belonging (ANB) must be computed as follows:

2 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
3 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on  
4 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and  
5 divide the sum by two; and

6 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved  
7 pupil-instruction-related days for the current school fiscal year and divide by 180.

8 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related  
9 days may be included in the calculation.

10 (3) When a school district has approval to operate less than the minimum aggregate hours under  
11 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

12 (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an  
13 education program:

14 (i) from ~~484~~ 180 to 359 aggregate hours of pupil instruction per school year is counted as  
15 one-quarter-time enrollment;

16 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time  
17 enrollment;

18 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time  
19 enrollment; and

20 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

21 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per  
22 school year may not be included for purposes of ANB.

23 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on  
24 the hours necessary and appropriate to provide the course within a regular classroom schedule.

25 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,  
26 or district may not be counted as more than one full-time pupil for ANB purposes.

27 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in  
28 a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as  
29 one-half pupil for ANB purposes.

30 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,

1 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes  
2 attendance prior to the day of the enrollment count.

3 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB  
4 calculations.

5 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a  
6 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the  
7 district, except that when:

8 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town  
9 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,  
10 full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic  
11 entitlement for the school calculated separately from the other schools of the district;

12 (ii) a school of the district is located more than 20 miles from any other school of the district and  
13 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school  
14 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school  
15 calculated separately from the other schools of the district;

16 (iii) the superintendent of public instruction approves an application not to aggregate when conditions  
17 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
18 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported  
19 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately  
20 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the  
21 other schools of the district; or

22 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and  
23 the basic entitlements of the component districts must be calculated separately for a period of 3 years following  
24 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional  
25 years as follows:

26 (A) 75% of the basic entitlement for the fourth year;

27 (B) 50% of the basic entitlement for the fifth year; and

28 (C) 25% of the basic entitlement for the sixth year.

29 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly  
30 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB

1 purposes;

2 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
3 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high  
4 school pupils for ANB purposes; or

5 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time  
6 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
7 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
8 program for the district.

9 (9) The district shall provide the superintendent of public instruction with semiannual reports of school  
10 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
11 superintendent.

12 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program  
13 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes  
14 only if the pupil is offered access to the complete range of educational services for the basic education program  
15 required by the accreditation standards adopted by the board of public education.

16 (b) Access to school programs and services for a student placed by the trustees in a private program  
17 for special education may be limited to the programs and services specified in an approved individual education  
18 plan supervised by the district.

19 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a  
20 youth detention center, may be limited to the programs and services provided by the district, at district expense,  
21 under an agreement with the incarcerating facility.

22 (d) This subsection (10) may not be construed to require a school district to offer access to activities  
23 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a  
24 pupil who is not otherwise eligible under the rules of the organization.

25 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this  
26 title and who is:

27 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance  
28 agreement and who is attending a school of the district;

29 (b) unable to attend school ~~due to~~ because of a medical reason certified by a medical doctor and  
30 receiving individualized educational services supervised by the district, at district expense, at a home or facility

1 that does not offer an educational program;

2 (c) unable to attend school ~~due to~~ because of the student's incarceration in a facility, other than a youth  
3 detention center, and who is receiving individualized educational services supervised by the district, at district  
4 expense, at a home or facility that does not offer an educational program;

5 (d) receiving special education and related services, other than day treatment, under a placement by the  
6 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's  
7 expense under an approved individual education plan supervised by the district;

8 (e) participating in the running start program at district expense under 20-9-706;

9 (f) receiving educational services, provided by the district, using appropriately licensed district staff at  
10 a private residential program or private residential facility licensed by the department of public health and human  
11 services;

12 (g) enrolled in an educational program or course provided at district expense using electronic or offsite  
13 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and  
14 ~~technology delivered~~ technology-delivered learning programs, while attending a school of the district or any other  
15 nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

16 (i) meet the residency requirements for that district as provided in 1-1-215;

17 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities  
18 Education Act or under 29 U.S.C. 794; or

19 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

20 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with  
21 the district under 20-9-707.

22 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the  
23 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated  
24 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever  
25 generates the greatest maximum general fund budget.

26 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund  
27 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and  
28 high school programs pursuant to subsection (12)(a) and then combined.

29 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

30 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the

1 previous 2 school fiscal years; and

2 (b) dividing the sum calculated under subsection (13)(a) by three."

3

4 **Section 9.** Section 20-9-353, MCA, is amended to read:

5 **"20-9-353. (Temporary) Additional financing for general fund -- election for authorization to**  
6 **impose.** (1) The trustees of a district may propose to adopt:

7 ~~\_\_\_\_\_ (a) an over-BASE budget amount for the district general fund that does not exceed the maximum general~~  
8 ~~fund budget for the district or other general fund budget limitations, as provided in 20-9-308(2); or~~

9 ~~\_\_\_\_\_ (b) a general fund budget amount in excess of the maximum general fund budget amount for the district,~~  
10 ~~as provided in 20-9-308(3).~~

11 (2) When the trustees of the district propose to adopt an over-BASE budget under subsection (1)~~(a)~~, any  
12 increase in local property taxes authorized by ~~20-9-308(5)~~ 20-9-308(4) must be submitted to a vote of the  
13 qualified electors of the district, as provided in 15-10-425. The trustees are not required to submit to the qualified  
14 electors any increase in state funding of the basic or per-ANB entitlements or of the general fund payments  
15 established in 20-9-327 through 20-9-330 approved by the legislature. When the trustees of a district determine  
16 that a voted amount of financing is required for the general fund budget, the trustees shall submit the proposition  
17 to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition. The  
18 election must be called and conducted in the manner prescribed by this title for school elections and must  
19 conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements of  
20 15-10-425.

21 ~~(3) Except as provided in subsection (8), when the trustees of a district propose to adopt the general fund~~  
22 ~~budget amount in excess of the maximum general fund budget under subsection (1)(b), the trustees shall submit~~  
23 ~~the proposition to finance the additional amount of general fund budget authority to the electors who are qualified~~  
24 ~~under 20-20-301 to vote upon the proposition. The election must be called and conducted in the manner~~  
25 ~~prescribed by this title for school elections. The ballot for the election must state the amount of the budget to be~~  
26 ~~financed, the approximate number of mills required to fund all or a portion of the budget amount, and the purpose~~  
27 ~~for which the money will be expended. The ballot must be in the following format:~~

28

PROPOSITION

29 ~~\_\_\_\_\_ Shall the district be authorized to expend the sum of (state the additional amount to be expended) and~~  
30 ~~being approximately (give number) mills for the purpose of (insert the purpose for which the additional financing~~

1 is made)?

2 \_\_\_\_\_  FOR budget authority and any levy.

3 \_\_\_\_\_  AGAINST budget authority and any levy.

4 ~~(4)~~(3) If the election proposition on any additional financing ~~or budget authority~~ for the general fund is  
5 approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may  
6 use any portion or all of the authorized amount in adopting the final general fund budget. The trustees shall certify  
7 any additional levy amount authorized by the election on the budget form that is submitted to the county  
8 superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of  
9 all taxable property within the district, as prescribed in 20-9-141.

10 ~~(5) Authorization to levy an additional tax to support a budget amount adopted as allowed by 20-9-308(3)~~  
11 ~~is effective for only 1 school fiscal year.~~

12 ~~(6)~~(4) All levies adopted under this section must be authorized by the election conducted before August  
13 1 of the school fiscal year for which it is effective.

14 ~~(7)~~(5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget  
15 amount ~~or an amount in excess of the maximum general fund budget amount for the district~~, as allowed by  
16 20-9-308(3), to the electors of the district, the trustees shall comply with the provisions of subsections (2) through  
17 ~~(6)~~ (4) of this section.

18 ~~(8) The trustees of the district may permissively levy up to the same over-BASE property tax revenue~~  
19 ~~levied in the prior fiscal year. (Terminates June 30, 2007--sec. 25(2), Ch. 462, L. 2005.)~~

20 **20-9-353. (Effective July 1, 2007) Additional financing for general fund -- election for authorization**  
21 **to impose.** (1) The trustees of a district may propose to adopt:

22 \_\_\_\_\_ ~~(a) an over-BASE budget amount for the district general fund that does not exceed the maximum general~~  
23 ~~fund budget for the district or other general fund budget~~ limitations, as provided in 20-9-308(2); ~~or~~

24 \_\_\_\_\_ ~~(b) a general fund budget amount in excess of the maximum general fund budget amount for the district,~~  
25 ~~as provided in 20-9-308(3).~~

26 (2) When the trustees of the district propose to adopt an over-BASE budget under subsection (1)(a), any  
27 increase in local property taxes authorized by ~~20-9-308(5)~~ 20-9-308(4) must be submitted to a vote of the  
28 qualified electors of the district, as provided in 15-10-425. The trustees are not required to submit to the qualified  
29 electors any increase in state funding of the basic or per-ANB entitlements or of the general fund payments  
30 established in 20-9-327 through 20-9-330 approved by the legislature. When the trustees of a district determine

1 that a voted amount of financing is required for the general fund budget, the trustees shall submit the proposition  
 2 to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition. The  
 3 election must be called and conducted in the manner prescribed by this title for school elections and must  
 4 conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements of  
 5 15-10-425.

6 ~~(3) When the trustees of a district propose to adopt the general fund budget amount in excess of the~~  
 7 ~~maximum general fund budget under subsection (1)(b), the trustees shall submit the proposition to finance the~~  
 8 ~~additional amount of general fund budget authority to the electors who are qualified under 20-20-301 to vote upon~~  
 9 ~~the proposition. The election must be called and conducted in the manner prescribed by this title for school~~  
 10 ~~elections. The ballot for the election must state the amount of the budget to be financed, the approximate number~~  
 11 ~~of mills required to fund all or a portion of the budget amount, and the purpose for which the money will be~~  
 12 ~~expended. The ballot must be in the following format:~~

13 PROPOSITION

14 ~~\_\_\_\_\_ Shall the district be authorized to expend the sum of (state the additional amount to be expended) and~~  
 15 ~~being approximately (give number) mills for the purpose of (insert the purpose for which the additional financing~~  
 16 ~~is made)?~~

17 ~~\_\_\_\_\_  FOR budget authority and any levy.~~

18 ~~\_\_\_\_\_  AGAINST budget authority and any levy.~~

19 ~~(4)(3) If the election proposition on any additional financing or budget authority for the general fund is~~  
 20 ~~approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may~~  
 21 ~~use any portion or all of the authorized amount in adopting the final general fund budget. The trustees shall certify~~  
 22 ~~any additional levy amount authorized by the election on the budget form that is submitted to the county~~  
 23 ~~superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of~~  
 24 ~~all taxable property within the district, as prescribed in 20-9-141.~~

25 ~~(5) Authorization to levy an additional tax to support a budget amount adopted as allowed by 20-9-308(3)~~  
 26 ~~is effective for only 1 school fiscal year.~~

27 ~~(6)(4) All levies adopted under this section must be authorized by the election conducted before August~~  
 28 ~~1 of the school fiscal year for which it is effective.~~

29 ~~(7)(5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget~~  
 30 ~~amount or an amount in excess of the maximum general fund budget amount for the district, as allowed by~~

1 20-9-308~~(3)~~, to the electors of the district, the trustees shall comply with the provisions of subsections (2) through  
2 ~~(6)~~ (4) of this section."

3  
4 NEW SECTION. **Section 10. Effective date -- applicability.** [This act] is effective July 1, 2007, and  
5 applies to school district budgets for school fiscal years beginning on or after July 1, 2007.

6 - END -